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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,390	01/19/2000	David M. Tumey	06 2916.001	4399
29767	7590 07/06/2004		EXAMINER	
ERIC W. CERNYAR, P.C.			BALI, VIKKRAM	
10401 FOX HOLLOW SAN ANTONIO, TX 78217			ART UNIT	PAPER NUMBER
			2623	_
			DATE MAILED: 07/06/2004	· \\8

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	09/488,390	TUMEY ET AL.
Office Action Summary	Examiner	Art Unit
	Vikkram Bali	2623
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1: after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be tim within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on 19 M 2a) This action is FINAL. 2b) This 3) Since this application is in condition for alloware closed in accordance with the practice under E	action is non-final. nce except for formal matters, pro	
Disposition of Claims		
4)	vn from consideration.	
Application Papers		
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) accomplicated any not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Examine	epted or b) objected to by the Edrawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priority application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Application ity documents have been receive I (PCT Rule 17.2(a)).	on No ed in this National Stage
Attachment(s)		
Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 12.	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal Pa	

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DETAILED ACTION

In response to the amendment filled on 5/19/2004 all the amendments have been entered and the action follows:

Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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3. Claims 1, 2, 8-10, 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya et al (US 6175772).

With respect to claims 1, 2, 8-10 and 11-16 the rejections are maintained and are incorporated with reference as set forth in the prior office action paper number 11. Also, Kamiya discloses said animate or inanimate object, (see figure 1, the camera taking the image of the person, human as claimed in claim 12) as claimed.

4. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya in view of Diamond et al (US 5314336).

With respect to claims 3-6 the rejections are maintained and are incorporated with reference as set forth in the prior office action paper number 11.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya in view of Black et al (US 5802220).

With respect to claim 7 the rejections are maintained and are incorporated with reference as set forth in the prior office action paper number 11.

Response to Arguments

6. Applicant's arguments filed 5/19/2004 have been fully considered but they are not persuasive.

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Applicant argues that the reference fails to disclose facial image recognition (see page 9 paragraph 2 of remarks dated 4/30/2004). Examiner disagrees and would like to point out that the claim limitations are given their broadest reasonable interpretations. And, in the instant case, Kamiya discloses an acquisition device to acquire a representation of a facial characteristics of an object, (see figure 3, numerical 2 a camera for taking pictures of the individual and the surrounding see col. 4, lines 15-17 and col. 6, lines 2-5); and facial image recognition, (see figure 3, numerical 20, and col. 4, lines 10-21 and col. 4, lines 48-59, wherein the user, i.e. human as claimed in claim 12, is imaged and the image is used to recognize the facial expression "facial recognition") as claimed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikkram Bali whose telephone number is 703.305.4510. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 703.308.6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vikkram Bali Primary Exam

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July 1, 2004